

**SECTION 68: RESPITE CARE FOR PEOPLE  
WITH ALZHEIMER'S DISEASE OR RELATED DISORDERS**

**68.01 DEFINITIONS**

- (A) **Authorized Agent** means an organization authorized by the Department to perform functions under a valid contract or other approved, signed agreement.
- (B) **Consumer** is the individual with Alzheimer's Disease or a related disorder.
- (C) **Covered Services** are those services for which payment can be made by the authorized agent under this Section.
- (D) **Household members:** means the consumer and spouse.
- (E) **Household members' income** includes:
  - (1) Wages from work, including payroll deductions, excluding state and Federal taxes and employer mandated or court ordered withholdings;
  - (2) Benefits from Social Security, Supplemental Security Insurance, pensions, insurance, independent retirement plans, annuities, and Aid and Attendance;
  - (3) Adjusted gross income from property and/or business, based on the consumer's most recent Federal income tax; and
  - (4) Interest and dividends.
  - (5) Not included are benefits from: the Home Energy Assistance Program, Food Stamps, General Assistance, Property Tax and Rent Refund, emergency assistance programs, or their successors.
- (F) **Liquid asset** is something of value available to the consumer that can be converted to cash in three months or less and includes:
  - (1) Bank accounts;
  - (2) Certificates of deposit;
  - (3) Money market and mutual funds;
  - (4) Life insurance policies;
  - (5) Stocks and bonds;
  - (6) Lump sum payments and inheritances and
  - (7) Funds from a home equity conversion mortgage that are in the consumer's possession whether they are cash or have been converted to another form.

Funds which are available to the consumer but carry a penalty for early withdrawal will be counted minus the penalty. Exempt from this category are mortuary trusts and lump sum payments received from insurance settlements or annuities or other such assets named specifically to provide income as a replacement for earned income. The income from these payments will be counted as income.
- (G) **Respite.** Services provided to individuals on a short-term basis, because of the absence of, or need for relief of, the caregiver. This service may be provided in the home, in a licensed Adult Day program, or in an institutional setting. An institution is

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- (1) An assisted living facility licensed according to 22 MRSA Section 7901-A-7902;
- (2) A nursing facility, or unit, licensed according to 22 MRSA Section 1811-1824;
- (3) An acute care or rehabilitation facility, licensed according to 22 MRSA Section 1811-1824; or
- (4) A facility for the treatment or management of persons who have mental retardation or mental illness.

### 68.02 Eligibility

- (A) **General and Specific Requirements.** To be eligible for services a consumer must:
- (1) Be at least 18;
  - (2) Live in Maine;
  - (3) Have a physician's clinical assessment of Alzheimer's or Related Disorder;
  - (4) Not be eligible for or receiving MaineCare Private Duty Nursing/Personal Care Services, MaineCare Home and Community Benefits, MaineCare Adult Day Health, or MaineCare Consumer-Directed Attendant Services programs.
  - (5) Not be participating under Section 61: Adult Day Services, Section 63: In Home and Community Support Services, or Consumer-Directed Home Based Care Program enacted by 26 MRSA Section 1412-G.
  - (6) For an individual have assets of no more than \$50,000 or for couples have assets of no more than \$75,000;
  - (7) Not be residing in a hospital, residential care facility or nursing facility.
  - (8) Consumer, caregiver or legal representative agrees to pay the monthly calculated consumer payment. This payment may be subsequently waived or reduced if the consumer's application for a waiver or reduction is approved.

### 68.03 Duration of Services

- (A) Each respite recipient may receive as many covered services as are required up to a maximum of \$ 3,800 per fiscal year or an amount otherwise established by the Department. The amount of service authorized is based on a determination of need by the Department or its Authorized Agent
- (B) Services under this Section may be suspended, reduced, denied or terminated by the Department, or the Authorized Agency, as appropriate, for the following reasons:
- (1) The consumer does not meet eligibility requirements;
  - (2) The caregiver declines services;

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- (3) The consumer is eligible to receive long-term care benefits under MaineCare including any MaineCare Home Community Based Benefits.
- (4) The consumer is eligible to receive services and funds are available for services under Section 63: In Home and Community Support Services and there is a waiting list under Section 68.
- (5) The health or safety of individuals providing services is endangered.
- (6) Services have been suspended for more than thirty (30) days.
- (7) The consumer, caregiver or legal representative of the consumer has failed to make the calculated monthly co-payment on behalf of the consumer.
- (8) When the designated representative gives fraudulent information to Department or the Authorized Agent.
- (9) There are insufficient funds to continue to pay for services for all current consumers, which results in a change affecting some or all consumers.

Notice of intent to reduce, deny, or terminate services under this section will be done in accordance with Section 40.01 (A) of this policy manual

- (C) **Suspension.** Services may be suspended for up to thirty (30) days while the consumer is hospitalized or using institutional care. If such circumstances extend beyond thirty (30) days, the provider may offer the option of a referral for a long-term care assessment.

~~Notice of intent to reduce, deny, or terminate services under this section will be done in accordance with Section 40.01 (A) of this policy manual~~

### 68.04 Covered Services

- (A) **Respite** services as defined in Section 68.01
- (B) **Administration.** The Bureau of Elder and Adult Services will allocate funds among the states Planning and Service Areas using the long-term care formula. The Bureau of Elder and Adult Services may recoup from the authorized agent and reallocate any unused funds. Authorized Agents may use up to 10% of the allocation to support administration of the services under this Section.
- (C) **Home Modifications** Home modifications, including registration for Safe Return, necessary to promote independent living and carry out the plan of care, up to a lifetime cost of \$2,000 and when there is no alternative source of funding. The cost will be included in the cap for the year in which the home modification expense was incurred.
- (D) **National Family Caregiver Support Program.** The Department may designate funds to be used to meet federal match requirements for the National Family Caregiver Support Program under Section 75.

### 68.05 Non-Covered Services

- (A) Services provided by any person for whom there is a notation on the CNA Registry of:

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- (1) Any criminal conviction, except for Class D and E convictions over ten years old that did not involve, as a victim of the act, a patient, client or resident of a health care entity; or
- (2) Any specified documented findings by the State Survey Agency of abuse, neglect or misappropriation of property of a resident, client or patient.
- (B) Services for which the cost exceeds the limits described in Section 68.03

### 68.06 Policies and Procedures

- (A) **Eligibility Determination** Documentation of a physician's clinical assessment of dementia shall be provided to the Authorized Agent. All respite services require eligibility determination and prior authorization by the Authorized Agency. The authorized Agent will:
  - (1) Accept verbal or written referral information on each prospective new consumer.
  - (2) Inform the consumer, caregiver or legal representative of available community resources and arrange for respite that reflects identified needs not to exceed the limits defined in Section 68.03.
  - (3) The Authorized Agent will inform the designated representative of the calculated co-payment based on the cost of services authorized.
- (B) **Waiting List**
  - (1) When funds are not available to serve new consumers, or to increase services for current consumers, the Authorized Agent will establish a waiting list. As funds become available, consumers will be assessed on a first come, first served basis.
  - (2) For consumers found ineligible for respite services the Authorized Agent will inform each consumer of alternative services or resources, and offer to refer the person to those other services.
  - (3) The Authorized Agency will maintain one waiting list for the counties they are authorized to serve. If there is a waiting list the first come first serve basis may be waived by the authorized agent if in its judgment it is necessary to respond to the emergency needs or special circumstances of the caregiver.
  - (4) Suspension. Services may be suspended for up to thirty (30) days while the consumer is hospitalized or using institutional care.
- (C) **Continued Services**
  - (1) An individual's specific needs for respite Services are reviewed at least every six months;

### 68.07 Professional and Other Qualified Staff

#### (A) The Authorized Agency shall:

- (1) Employ staff qualified by training and/or experience to perform assigned tasks and meet the applicable policy requirements.

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- (2) Comply with requirements of 22 M.R.S.A. §3471 et seq. and 22 M.R.S.A. §4011-4017 to report any suspicion of abuse, neglect or exploitation.
- (3) Pursue other sources of reimbursement for services prior to the authorization of respite services.
- (4) Operate and manage the program in accordance with all requirements established by rule or contract.
- (5) Have sufficient financial resources, other than State funds, available to cover any respite expenditures that are disallowed as part of the Bureau of Elder and Adult Services utilization review process.
- (6) Inform in writing any consumer with an unresolved complaint regarding their services about how to contact the Long Term Care Ombudsman.
- (7) Assure that the cost of respite services provided to a consumer in a twelve month period does not exceed the applicable annual cost limit established in Section 68.03.
- (8) Implement an internal system to assure the quality and appropriateness of assessments to determine eligibility and authorize respite services.

### 68.08 Consumer Records and Program Reports

- (A) **Content of Consumer Records.** The authorized agency must establish and maintain a record for each consumer that includes at least:
- (1) Both the consumer's and caregivers' name, address, mailing address if different, and telephone number;
  - (2) The name, address, and telephone number of someone to contact in an emergency;
  - (3) Clinical assessment of dementia and financial assessments and reassessments that include the date they were done and the signature of the person who did them;
  - (4) A dated release of information signed by the designated representative that conforms with applicable law, is renewed annually and that:
    - (a) Is in language the designated representative can understand;
    - (b) Names the agency or person authorized to disclose information
    - (c) Describes the information that may be disclosed;
    - (d) Names the person or agency to whom information may be disclosed;
    - (e) Describes the purpose for which information may be disclosed; and
    - (f) Shows the date the release will expire.
  - (5) Documentation that the caregivers and consumers eligible to apply for a waiver of the consumer payment, were notified that a waiver may be available;
  - (6) Written progress notes that summarize any contacts made with or about the consumer.
- (B) **Program Reports.** The following reports must be submitted to the Bureau of Elder and Adult Services, in a format approved by the Bureau of Elder and Adult Services, by the day noted:

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- (1) Monthly service and consumer reports including admissions, discharges and active client lists, due no later than twenty-five days after the end of the month;
- (2) Monthly expense reports, due no later than twenty-five days after the end of the month;
- (3) Quarterly report included in the Area Agency on Aging fiscal report, due no later than twenty five days after the end of the quarter.
- (4) Quarterly performance based contracting report.

### 68.09 Responsibilities of the Bureau of Elder and Adult Services

- (A) Selection of Authorized Agents
- (B) Setting the annual individual service limit.
- (C) Establishing performance standards for contracts with the authorized agencies including but not limited to the numbers of consumers to be served and allowable costs for administration and direct service.
- (D) Providing written notification to the authorized agency regarding strengths, problems, violations, deficiencies or disallowed costs in the program and requiring action plans for corrections.
  - (1) Assuring the continuation of services if the Bureau of Elder and Adult Services determines that an Authorized Agent's contract must be terminated.
  - (2) Administering the program directly in the absence of a suitable Authorized Agent.
  - (3) Conducting a request for proposals for authorized agents at least every five years
  - (4) At least annually, review randomly selected requests for waivers of consumer payment.
  - (5) Recouping respite funds from the agencies when the Bureau of Elder and Adult Services determines that funds have been used in a manner inconsistent with these rules or the Authorized Agent's contract.

### 68.10 Consumer Payment

- (A) **Consumer Payment.** Consumers will pay 20% of the cost of respite services under this program, except when they are granted a waiver.
- (B) **Waiver of Consumer Payment.** The administering agency will manage requests for waiver of consumer payments. Consumers will be informed that they may apply for and receive a waiver of all or part of the assessed payment when:
  - (1) Monthly income of household members, as defined in Sections 68.01(D) and 68.01(E) is no more than 200% of the federal poverty level; and
  - (2) Household assets are less than \$15,000.
  - (3) Calculation of the waiver of the consumer payment will be completed by the authorized agent following the process outlined in Section 63.12